

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BP WEST COAST PRODUCTS, LLC,  
Plaintiff and Counter-Defendant,  
  
v.  
  
CROSSROAD PETROLEUM, INC., ET  
AL.,  
Defendants and Counter-Claimants.

Case No.: 12cv665 JLS (JLB) Lead Case

**ORDER GRANTING LEAVE TO  
FILE MOTION FOR SUMMARY  
JUDGMENT**

(ECF No. 654)

**AND RELATED CONSOLIDATED  
ACTIONS**

Presently before the Court is Plaintiff and Counter-Defendant BP West Coast Products, LLC's ("BP") Motion for Leave to File Motion for Partial Summary Judgment ("Leave Request"). (ECF No. 654.) Although the deadline for filing dispositive motions was set for April 15, 2016, (ECF Nos. 318, 486), BP requests leave to file a post-deadline Motion for Partial Summary Judgment "directed to one discrete issue: unpaid motor fuel[.]" (Mot. 1).

Federal Rule of Civil Procedure 56 permits a party to bring a motion for summary judgment "at any time until 30 days after the close of all discovery." Fed. R. Civ. P. 56(b). However, Rule 56 also allows the deadline by which a party may bring a motion for summary judgment to be extended or shortened by "local rule or . . . court order[.] . . . ." *Id.* "[S]o long as no prejudice results, the policies underlying [Rule] 56 favor extending

1 the time in which summary judgment motions may be made when material facts are  
 2 undisputed, and one of the parties is entitled to judgment as a matter of law.”  
 3 *Tungjunyatham v. Johanns*, No. 1:06-CV-01764-SMS, 2010 WL 1797264, at \*2 (E.D. Cal.  
 4 May 4, 2010) (citing *Util. Control Corp. v. Prince William Constr. Co.*, 558 F.2d 716, 719  
 5 (4th Cir. 1977)).

6 In support of BP’s Leave Request, BP notes that: (1) it did, in fact, file motions for  
 7 summary judgment prior to the dispositive motion deadline, (*id.* at 3); (2) that resolution  
 8 of the remaining unpaid motor fuel claims will likely “eliminate the need for trial against”  
 9 six Defendants and Counter-Claimants and thus narrow the issues such that those  
 10 remaining can all be disposed of in one trial, (*id.*); (3) Defendants and Counter-Claimants  
 11 have adequate notice of BP’s leave request and potential summary judgment filing, (*id.* at  
 12 3–4); and (4) BP’s request is not the product of negligence, carelessness, or mistake[,]” but  
 13 instead is designed “to expedite finality of claims in the most efficient form—briefing  
 14 rather than a jury trial[,]” (*id.* at 3). Additionally, resolving the claims for unpaid motor  
 15 fuel will likely implicate limited factual and legal issues, all of which have been narrowed  
 16 by discovery. (*See id.* at 2–3.) Finally, litigation is unable to proceed for at least the next  
 17 three months due to the Lacey Defendants’ Counsel’s recent accident. (*See* ECF Nos. 659,  
 18 660.)

19 Given the foregoing, and good cause appearing, the Court **GRANTS** BP’s Leave  
 20 Request. However, the Court is mindful that Counsel for the Lacey Defendants will be  
 21 unable to respond for at least ninety days. Accordingly, the Court sets the following

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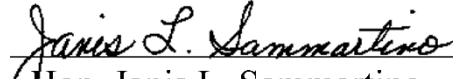
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1 briefing schedule for BP's Motion for Partial Summary Judgment. BP **SHALL FILE** its  
2 Motion for Partial Summary Judgment and supporting memorandum on or before February  
3 28, 2017. The Lacey Defendants **SHALL FILE** their Opposition on or before March 30,  
4 2017.<sup>1</sup> BP **SHALL FILE** its response, if any, on or before April 17, 2017.

5 **IT IS SO ORDERED.**

6 Dated: December 19, 2016

7   
8 Hon. Janis L. Sammartino  
United States District Judge

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27 <sup>1</sup> This is fourteen days after the next scheduled hearing and several weeks after the end of the period during  
28 which Ms. Lacey's doctor advised the Court that Ms. Lacey's "cases must be stayed or delayed . . . ." (Lacey Decl. 5, ECF No. 657.) However, should the Lacey Defendants need more time to file their Opposition due to further medical complications, they may of course move the Court for additional time.